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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,444	06/18/2001	Shirley J. James	PHB 34,056C	3097
24737	7590	01/20/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			CHEVALIER, ROBERT	
			ART UNIT	PAPER NUMBER
			2616	
DATE MAILED: 01/20/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/883,444

Applicant(s)

JAMES, SHIRLEY J.

Examiner

Bob Chevalier

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Objections***

1. It is noted that the newly added claims contain two claims numbered 26. Proper renumbering of the claims is requested.
2. Claim 20 should be depended from 19 instead of claim 9. Clarification is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 5-6, 10-11, 13-14, 16-18, are rejected under 35 U.S.C. 102(e) as being anticipated by Terry.

Terry discloses a data recording/reproducing apparatus that shows all the limitations recited in claims 1, and 6, including the feature of converting received teletext data to a multilevel code having more than two code levels at a data rate which is lower than the standard data rate of the teletext data (See the capability of converting the received teletext data into a plurality of data blocks as shown in Terry's column 2, lines 8-12, and lines 23-25), and the feature of recording the multilevel code on the record carrier as specified in the present claims 1, and 6. (See Terry's column 2, lines 13-15).

With regard to claim 5, the feature of reading the multilevel code from a record carrier, converting the same to standard teletext data and applying the same to the teletext encoder as specified thereof would be present in the cited reference of Terry. (See the capability of reading the data blocks from the recording medium and converting the same to the standard teletext data as specified in Terry's column 2, lines 56-66, and Figure 3).

With regard to claim 10, the feature of the buffer RAM connected between the means for detecting teletext data and the means for encoding as specified thereof is present Terry. (See Terry's Figure 2).

With regard to claims 11, the feature of the buffer RAM receiving the teletext data packets, and the encoding means generate a clock run in and a framing code as specified thereof would be present in Terry. (See Terry's Figure 2, and column 6, line 43, to column 7, line 32).

With regard to claims 13-14, the feature of feeding the multilevel code to a decoder to convert the multilevel code to a binary code at the standard teletext data rate and multiplexing the binary code with the video signal for application to a teletext decoder as specified thereof would be present in Terry. (See Terry's Figure 3, and the corresponding disclosure).

With regard to claims 16-18, the feature of the data from the decoder being written into a RAM, and the teletext encoder receiving data from the RAM and generating the clock run-in and framing code as specified thereof is present in Terry. (See Terry's Figure 3, and the corresponding disclosure).

### ***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-27 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-27 of U.S. Patent No. 6,285,822.

Although the conflicting claims are not identical, and that the claimed language of the present Application is somewhat different from the language recited in the patented claims 1-27, however, they are not patentably distinct from each other because it is noted that it would have been obvious to one of ordinary skill in the art to recognize that the patented claims 1-27, would be able to perform the functions of the claimed limitations of the present Application since the limitations recited in the claimed invention of the present Application are also recited in the patented claims. Applicant's attention is directed to the Patent No. 6,285,822, claims 1-27.

With regard to claims 1-6, see the patented claims 1-6 respectively.

With regard to claims 7-25, see the patented claims 6-24 respectively.

With regard to claims 26, see the patented claim 25.

With regard to claim 27, see the patented claim 27.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bob Chevalier whose telephone number is 571-272-7374. The examiner can normally be reached on MM-F (9:00-6:30), second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ROBERT CHEVALIER  
PRIMARY EXAMINER

B. Chevalier  
January 17, 2006.